

what is meant by a forfeiture of estate during the life of a person. The question has been whether it was a conviction during the life, or a forfeiture for the duration of the life, whether it was a limitation upon the time of conviction, or a limitation upon the time for which the forfeiture was made. I desire to see no such ambiguity incorporated into our Constitution. Let us have it expressly declared, if it should be of any importance that we should take cognizance of treason at all, unambiguously declared, so that it shall strike equally at all, and not respect the rights, if they be rights, of persons possessed of real estate more than of persons possessed of personal estate. So that I apprehend we are doing no hardship towards any persons excepting the persons who must necessarily and unavoidably suffer from their connection by near and dear ties to a person convicted of this great crime.

Mr. SANDS. I would like, as the gentleman from Charles (Mr. Edelen) alluded to me, to say a word in reply; and I shall do it in a much calmer tone than I usually do, because of the very kind and courteous manner with which he spoke. Courtesy and kindness I love so much that it is always a great pleasure to me to return them. I wish to suggest to my friend a matter which may be raised by a question.

Under the English law of entailed property, what estate does the heir take? I ask that as a question of law touching the right of forfeiture there and here; because upon the answer to that may depend the whole argument. Yesterday my argument proceeded upon this assumption that there were two things in government: allegiance, which must be perfect; and protection which must also be perfect; that is, to the whole estate, or the property. There is a wide distinction between estates taken under the law of primogeniture and those taken under our law. There are many distinctive features that might, and in a perfectly legal point of view do account for the differences in the system.

My argument was only this, that the party guilty of treason forfeited his all. Now if the party's estate be in fee, if it be a perfect estate, if it is his absolutely to alienate, or to do as he pleases with it, then under my argument he forfeits the estate in fee. But suppose a party has a life estate with a remainder over to another party. The remainder man being perfectly innocent of any crime, I put it to the gentleman as a matter of law, would there be any justice, any equity, in forfeiting more than the estate of the party guilty of the act. Assuredly not. Nor do I propose, nor does the line of argument I pursued propose any such forfeiture. It was just this, that the party forfeited what he had, all he had, and nothing which of right belonged to another party.

I said that, I thought, was the law. I did

not force my opinion upon this question upon the Convention; but having been asked for my opinion, I humbly stated that as my view; that no government has the right, for the crime of any man, to forfeit more, nor can it in law forfeit more than is really his. Then I come to the other proposition, that if I renounce allegiance, and commit treason against the government, I lawfully forfeit all. That is my view of the law.

I must say in reply to another observation made by my friend in the same kind spirit which characterized all his remarks, that the fact that I endorsed the President of the United States in many things does not of course bind me to endorse his opinions of constitutional law. If I endorse his policy in regard to the prosecution of this war for the restoration of the Union, and the assertion of the supremacy of the government of the United States over all its territory, and if I endorse him in many other things, it does not follow as a consequence that his opinions in regard to constitutional law are binding upon me.

I think the gentleman evidently mistook the point of my argument yesterday touching this provision in the Constitution of the United States. My point was this: that treason shall not work corruption of blood. I agree that it shall not. But still I declare it as my impression in regard to this matter, that the fact that it does not work of necessity corruption of blood, which would of course be an absolute forfeiture of all the estate and all the rights of any party taking under or proposing to take under the party convicted, by no means leaves Congress without the right in specific cases to punish treason; as it declares in the first clause of this section, "Congress shall have power to declare the punishment of treason." I say that it shall have that power; not a limited power; not a restricted power, the simple rule being that this provision of the Constitution does not of itself of very necessity work the corruption of blood. That was my argument yesterday, and that is my argument and position to-day; that this is mercifully meant to say of the children of traitors, if Congress in its just judgment and in the exercise of its constitutional authority, shall deem the children of such traitors fit subjects for its magnanimity, its generosity, or its leniency, it may do so.

A great deal has been said about what we would put on innocent children. Pursue this argument, as a matter of law and logic, to its terminus. When a man is executed under the fiat of the law for the crime of murder, who is guilty of the cruelty to his children? Who stamps them with disgrace? Who takes from them the protection which God meant they should have from their father? Is it the law? Will gentlemen say that the law stamps with disgrace the child